

## ORDINANCE NO. \_\_

Series 2019

## AN ORDINANCE OF THE TOWN OF PITKIN, COLORADO, RELATING TO THE OPERATION OF SHORT-TERM RENTAL LODGING BUSINESSES WITHIN THE TOWN OF PITKIN

WHEREAS, Colorado Revised Statutes (2009), 31-15-101, et seq., authorizes a municipality to enact regulations that promote the health, safety and welfare, and improve order, comfort, and convenience of the municipality and inhabitants thereof, and

WHEREAS the Board of Trustees finds that identifying such rights and responsibilities would benefit the health, safety, and welfare of the Town's residents, and therefore is in the Town's best interest.

<sup>1</sup>NOW, THEREFORE, be it ordained by the Board of Trustees of the Town of Pitkin, Colorado, that, effective 30 days after **publication** ~~approval by the Board of Trustees~~, the following restrictions and requirements be effective for any property owners to rent their property in Pitkin on a short-term basis.

**SECTION 1. TITLE AND AUTHORITY**

The Town of Pitkin Board of Trustees, who also serve as the Town of Pitkin Local Board of Health<sup>2</sup>, will enact the processes defined in this ordinance and will act to enforce the processes and standards set forth herein.

**SECTION 2. SCOPE AND PURPOSE**

- A. **Declaration:** This ordinance is adopted to regulate short-term rental operations in the Town of Pitkin, Colorado, and to harmonize such operations with Town of Pitkin, Colorado Onsite Wastewater Treatment Systems (OWTS) ordinance and Zoning Code<sup>3</sup>
- B. **Purpose:** The purpose of this ordinance is to establish policies for the operation of short-term rental lodging businesses, as defined hereinafter, within the Town of Pitkin. The Board of Trustees recognizes that transient use of residences may have impacts on the residential nature of the community, especially within the Residential district. Of these impacts, the possible adverse consequences to the Town of Pitkin's OWTS is a principle concern. This ordinance is intended to provide reasonable guidelines to preserve the residential nature of the community and protect its water, while allowing lodging alternatives<sup>4</sup> for the general public.
- C. **Severability:** Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof other than the part declared to be invalid.

**SECTION 3. INTERPRETATIONS AND DEFINITIONS**


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<sup>1</sup> Removed third "whereas" from previous draft

<sup>2</sup> This is the only LBH reference other than definition e.

<sup>3</sup> Added "and zoning code"

<sup>4</sup> "Allowing lodging alternatives" replaces "recognizing the opportunity to provide affordable housing"

The Town of Pitkin, Colorado Zoning Code of 2012, or any subsequent adopted ordinances amending, or replacing and repealing the Town of Pitkin, Colorado Zoning Code of 2012 shall be referred to hereinafter as the Zoning Code<sup>5</sup>.

The Town of Pitkin, Colorado On-site Wastewater Treatment System Ordinance, Ordinance 2, Series 2018, or any adopted ordinances amending, or replacing and repealing Ordinance 2, Series 2018 shall be referred to hereinafter as the OWTS Ordinance.

Terms used in this ordinance shall be as set forth in the Zoning Code or otherwise provided hereinafter, provided, however, if there are any conflicts, contradictions, or differences between the process and requirements set out in the Zoning Code or the OWTS Ordinance and the process and requirements set out in this ordinance, the terms and conditions in the Zoning Code or OWTS Ordinance shall control.

- a. Property Owner: Owner of property within the Town of Pitkin as documented within the Assessor's office of Gunnison County<sup>6</sup> **and the county records.?? REVERT TO ORIGINAL LANGAUGE. NAME OFFICIAL TITLE OF ASSESSOR**
- b. Managing Business: Any business or individual which ~~markets, advertises~~<sup>7</sup>; **manages**, operates, or collects monies for the operation of a **STR Short-term Rental Business** (as defined hereinbelow) for a Property Owner of a **Short-term Rental Business** that operates within the Town of Pitkin.
- c. The Town: The Town of Pitkin in the state of Colorado.
- d. Town Clerk: The Clerk of the Town of Pitkin.
- e. Local Board of Health: ~~The Town of Pitkin Board of Trustees serves as the Local Board of Health for the Town of Pitkin. This is defined in the State of Colorado's Regulation 43.~~
- f. Short-Term Rental (STR) Business: A single family ~~residence~~ **dwelling**<sup>8</sup> that is rented in whole or part for any twenty-nine (29) day period or less.
- g. Designed Occupancy/Capacity: The maximum occupancy of a property for which the OWTS has been designed and constructed to process waste water.
- h. Maximum Occupancy: The maximum number of persons that can occupy a STR Business at any time **as stated in the STR Lodging Business License granted by the Town of Pitkin.**
- i. Expanded Use: The addition of more occupant capacity to an existing property than the OWTS serving that property was designed to support.

<sup>5</sup> Simplified the language of this section's introduction.

<sup>6</sup> "Assessors office of Gunnison County" replaces "Gunnison County Assessor's and Recorder's records".

<sup>7</sup> Suggestion to strike; if this is the definition we are defining websites and other marketing mediums as "managers".

<sup>8</sup> Changed "property" to "residence"

- j. Occupant: Any person ~~residing~~ **occupying** in an STR.
- k. STR Renting Party: Any person or business that rents a property which is operated as a STR Business.
- l. <sup>9</sup>STR Property: Reference to any specific property used as an STR within the Town of Pitkin, Colorado.
- m. Property File: A file created at the time an application is submitted<sup>10</sup> that contains the completed application materials, sales tax records, verified complaints filed against the STR property and any other documents related to the property operating as an STR Business.<sup>11</sup> **(REFERENCE IN APPLICATION SECTION)**
- n. STR Business License: A license provided by the Town of Pitkin, Colorado, allowing the operation of a Short-term Rental Business within the Town of Pitkin, Colorado.
- o. Multi-family dwelling: Residential housing where multiple separate housing units are contained within one building.<sup>12</sup>
- p. Performance Bond: A cash bond posted by the STR Business to The Town, which is held by The Town as surety of compliance with the regulations of this ordinance.
- q. Municipal Court: A court established by The Town in accordance with Colorado Statutes.<sup>13</sup> **(REFERENCE IN SECTION RE: VIOLATIONS – JIM, PLEASE DEVELOP THIS VERBIAGE)**

#### **SECTION 4. STR BUSINESS LICENSE REQUIRED:**

- A. The operation of an STR is prohibited within The Town unless a license has been duly issued therefore pursuant to this Ordinance and in compliance with any and all applicable Town laws.<sup>14</sup> **(REQUEST JIM REVIEW OF FOOTNOTE 14)**
- B. No STR shall allow or offer to allow- through advertisement or otherwise- any person to occupy any property as a tenant or lessee of a short-term rental unless such property unit has been licensed pursuant to this ordinance.
- C. Multi-Family Dwellings are not eligible for an STR License.
- D. No licensed STR Business shall advertise a short-term rental unless the advertisement includes the license number and the Maximum Occupancy permitted in the unit or dwelling. For the

<sup>9</sup> Removed and renamed “l” and “m” pertaining to shared OWTS with common/separate owner--no reference elsewhere.

<sup>10</sup> Added “created at the time an application is submitted”; added “verified” before complaints.

<sup>11</sup> “Property File” not mentioned elsewhere in document.

<sup>12</sup> Removed “multi-family dwellings are not allowed to operate as STR’s” → added language to 4C

<sup>13</sup> “Municipal Court” not used elsewhere in document.

<sup>14</sup> Combined (a) and (b) of previous draft and added C. (see definition “r”). Combined (c) and (d) of previous into D.

purpose of this section, the terms “advertise,” “advertising” or “advertisement” mean the act of drawing the public’s attention to a short-term rental in order to promote the availability of the premises.

~~E. No STR shall advertise sleeping arrangements in a short-term rental that exceeds the Maximum Occupancy of the STR Business License.<sup>15</sup>~~

## SECTION 5. APPLICATION FOR LICENSE

This section provides the information required in the process of applying for an STR Business License. Please refer to Section 12 for further information on operational guidelines for licensed STR’s.<sup>16</sup>

A. All license applications shall be signed by the Property Owner and submitted to the **Town** Clerk on an **application** form<sup>17</sup> determined by the Board of Trustees, which shall include such information as is reasonably necessary for the Trustees to act on such an application.

The following is the minimum information to be provided with the application. Additional information may be requested by the Board of Trustees to determine whether an application meets the requirements of this Ordinance.

- i. Property Owner’s name, address, telephone number and email address
- ii. Property documentation from the Gunnison County Recorder's Office showing the owner's name and legal description of property.
- iii. STR Property’s physical address and legal description.
- iv. Local contact name, address, telephone number and email address, whether the Property Owner, Managing Business, or other.
- v. Sales Tax ID number and name on Sales Tax License
- vi. Maximum occupancy.
- vii. Advertised occupancy.
- viii. OWTS occupancy documentation.
- ix. Off street parking provisions including auxiliary trailer parking when necessary, **including** ~~This will also include~~ a photo or sketch of this provision.
- x. Life/Safety Self-Certification Form indicating whether a portion of the house is not available to guests; or  
Safety Certification Inspection<sup>18</sup> (**acknowledge egress plans, fire extinguisher, smoke and carbon monoxide detectors in application**)

B. All license applications, including applications for renewal of existing licenses, shall be accompanied by a non-refundable application fee. Upon approval of an application the Property

<sup>15</sup> Discuss this in light of enforcement feasibility.

<sup>16</sup> Added this introduction. Re-formatted entire section; content the same.

<sup>17</sup> Create application form

<sup>18</sup> Develop further; possible inclusion of zoning board review in this section

Owner must pay all fees and bonds for the STR License as required by the Town within 15 (fifteen) days of the application approval. If payment is not received by this date the application is considered automatically denied. If denied, applicants may choose to re-apply. A new application fee is required.

- C. The applicant shall inform the Town Clerk in writing of any material change to the information submitted on an application for a license within 15 calendar days of a change.
- D. The applicant shall self-certify that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Colorado.
- E. **A Property Owner may apply for and hold only one STR Business License for the same calendar year, which is limited to only one Residential property within The Town. The Town Board will not approve more than one STR Business License per Property Owner(s).**<sup>19</sup>
- F. All complete applications for licenses will be reviewed by the Town Board of Trustees at a public meeting, determined if the application is in compliance with this Ordinance and either Granted or Denied based upon the assessment of compliance.<sup>20</sup>

#### **SECTION 6. STR BUSINESS LICENSE NON-TRANSFERABLE**

STR Business Licenses issued under this Ordinance are not transferable.

#### **SECTION 7. TERM OF LICENSE AND RENEWAL**

- A. STR Business Licenses issued pursuant to this Ordinance shall be valid for a period of three (3) calendar years from the date of issuance. Licenses must be renewed at the end of its valid period.
- B. Application **(Applicants?)** for renewals of a STR Business License are subject to the requirements set forth in this Ordinance shall complete an application for renewal<sup>21</sup>. The renewal fee for a previously granted STR License is as set forth in the STR Fee Resolution. **(Should Board approve renewals?)**

#### **SECTION 8. DISPLAY OF STR BUSINESS LICENSE**

A copy of the STR Business License will be displayed within the STR Property in a prominent location.

The STR Business License number shall be prominently displayed in all listings or advertising of the licensed STR Property. See also section 4D.<sup>22</sup>

<sup>19</sup> Controversial: the concept of caps would neutralize the issue.

<sup>20</sup> Develop assessment of compliance

<sup>21</sup> Added language to clarify process and fee schedule for renewal applications. Create renewal application and STR Fee Res.

<sup>22</sup> Added reference to previous mention of advertising.

## SECTION 9. OCCUPANCY DETERMINATION FOR STR PROPERTY

Determination of the OWTS Designed Occupancy/Capacity is required as part of the STR Business License application. The applicant for a STR Business License is responsible for all costs involved with determination of the OWTS Designed Occupancy/Capacity.

<sup>23</sup>~~The Maximum Occupancy of a STR property is determined by the District in which it is physically located.~~

~~\_\_\_\_\_ Residential District: 6 persons Maximum Occupancy~~

~~\_\_\_\_\_ Business District: 8 persons Maximum Occupancy~~

~~Notwithstanding the Maximum Occupancy stated above,~~ The occupancy of a STR property can never exceed the designed capacity of the OWTS.

The determination of OWTS Designed Occupancy/Capacity is established based on the following:

- A. The OWTS was designed by a professional Engineer and is in compliance with the Town of Pitkin OWTS Ordinance: In this instance the original engineering design and Record Drawing documentation may be used to establish the OWTS Designed Occupancy/Capacity for this ordinance.  
The Designed Occupancy/Capacity must be clearly stated in the documentation and the Town may require a Colorado Professional engineer to review the documentation and clearly state the designed occupancy/capacity of the system.
- B. The OWTS design and/or capacity is unknown or undocumented: In this instance a NAWT certified inspector must perform a “Title Transfer”, “NAWT” or equivalent inspection. This information will be reviewed by a Colorado Professional Engineer experienced in designing OWTS and a determination made of the operational capacity of the OWTS, with reference to the design specifications provided in Regulation 43. This operational capacity will then be accepted as the OWTS Designed Occupancy/Capacity for this ordinance.

## SECTION 10. REFUSAL TO GRANT, SUSPENSION, REVOCATION, OR NONRENEWAL OF A STR BUSINESS LICENSE

The Town Board of Trustees ~~may refuse~~ **shall deny**<sup>22</sup> ~~to grant~~ an initial license, **renewal of an** existing license, or may choose to suspend or revoke any license requested or issued pursuant to this Ordinance if the Board of Trustees<sup>24</sup> determines that any of the following have occurred:

- A. The application is not complete and/or is lacking the necessary information.
- B. **The existence of** fraud, material misrepresentation or false statement(s) in the initial application for the license or any renewal application; or

<sup>23</sup> Re-worded section

<sup>24</sup> Replace “BOT” or “Director” with “Planning Department” (would add to definitions and develop provisions under Sec.13).

- C. **There is a** failure to comply with the terms or conditions of the license<sup>25</sup>, the provisions of this Ordinance, or any other application provision of federal, state, or local law including, but not limited to the Town of Pitkin ordinances.

If the *Board of Trustees* finds that a violation of any provision of this Ordinance exists, the *Board of Trustees*, after notice to the licensee, may take any one or more of the following actions to remedy the violation:

- i. Issue any reasonable order to ensure compliance with this Ordinance.
- ii. Impose a civil penalty according to the following schedule:
  1. Any violation of this ordinance except Maximum Occupancy, \$300;
  2. Violation of Maximum Occupancy, \$600;
  3. More than two violations of this ordinance within 45 days, \$1,000.
- iii. Revoke the license.<sup>26</sup>

The *Board of Trustees* shall not accept an application from the same licensee for the same dwelling unit after revocation of a license; 1. For at least three (3) years following the revocation; and 2. Unless the applicant demonstrates full compliance with all licensing requirements after the three (3) years following a revocation is passed.

## **SECTION 11. PERFORMANCE BOND**

<sup>27</sup>Property Owners that operate a STR Business within The Town, are required to post a cash bond with the Town of Pitkin in a maximum amount determined by the Board of Trustees. This bond is held by The Town in a specific account assigned to the STR Business License.

- A. Any fine imposed under Section 10 of this ordinance will be deducted from the Performance Bond and forfeited to The Town.
- B. Any fine imposed under Section 10 of this ordinance which is reversed on appeal<sup>28</sup> to the Board of Trustees will be returned to the Performance Bond by The Town.
- C. Monies can be added to the Performance Bond only at the initial application for a STR Business License and only at the time of renewal of an existing STR Business License. The Performance Bond cannot contain an amount in excess of the maximum amount determined by the Board of Trustees.
- D. At any time the STR Business License's Performance Bond has a balance of zero (\$0) or a negative value, the STR Business License is immediately Revoked.
- E. If the Property Owner surrenders or elects not to renew a STR Business License, The Town will remit the balance of the associated Performance Bond to the Property Owner. This action will occur at the next monthly meeting of The Town and be approved by The Board of Trustees.

<sup>25</sup> This “terms or conditions of license” would include (a)(3) from previous draft, “failure to allow inspection of safety/application info”.

<sup>26</sup> Expand on what is a fine, a suspension or an automatic revocation.

<sup>27</sup> Re-worded; Suggestion to request McDonald review the concept of performance bonds

<sup>28</sup> Create process of appeal

## SECTION 12. SHORT-TERM RENTALS

This section specifically addresses the requirements of a Licensed Short-term Rental. To protect the residential nature of The Town and discourage disruptive behavior, Short-term Rentals within the Town must comply with the following:<sup>29</sup>

- A. Property Ownership: A STR property must be owned by an individual or joint couple. For purposes of this Ordinance Property Ownership will not include any corporation, partnership, firm, association, joint venture, trust, or other similar legal entity.<sup>30</sup>
- B. Owner Occupancy Requirement: The licensee must occupy or reside in the licensed property for at least six (6) weeks in any given calendar year throughout the term of the license. This regulation only applies to STR Businesses located in the Residential District of The Town.<sup>31</sup>
- C. Sales and use tax license required: It shall be unlawful to operate a short-term rental without having first obtained a valid State of Colorado sales and use tax license for the STR Property. The name on the STR Business License and the Colorado sales and use tax license will be the same name.<sup>32</sup>
- D. Occupancy: The occupancy of a STR property will not exceed the Maximum Occupancy allowed by the STR Business License.
- E. Parking: All STR Occupant parking must comply with the parking provisions provided at the time of application and deemed acceptable for the granting of the STR Business License.
- F. Safety requirements: The STR Property Owner is required to submit a Life/Safety Self-Certification Form which defines the safety notifications and equipment that must be present in the STR Property.<sup>33</sup>
- G. Insurance: The licensee must provide and maintain fire, hazard and liability insurance within the liability coverage limits set by the Board of Trustees.<sup>34</sup>
- H. Compliance with other laws: The STR Property licensed must comply with all applicable federal, state and local laws, including but not limited to, the Town of Pitkin ordinances.
- I. Local Contact: All STR Businesses are required to designate a Managing Business or local

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<sup>29</sup> Added introduction and combined “(k) disruptive behavior” into this portion of text.

<sup>30</sup> Controversial: Suggestion of caps negates the issue

<sup>31</sup> Controversial: Suggestion of caps negates the issue

<sup>32</sup> Controversial: Suggestion of caps negates the issue

<sup>33</sup> See Section 5 and Section 10 for reference

<sup>34</sup> Controversial: Is it the concern of the Town how a home is insured?



contact person that is available to respond to emergencies 24 hours a day and reside within sixty (60) minutes drive time of The Town. This designated local contact must be empowered to resolve any complaints or issues arising by the STR Business, the STR Renting Party, the Occupant and The Town.<sup>35</sup>

- J. Posting Requirements: For each STR Business, the property address and the Local Contact’s phone number and email address will be listed on the official Town of Pitkin, Colorado website. Any change of the Local Contact by a STR Business requires prior notification to the Town Clerk. Every short-term rental shall have posted in a prominent location in the STR Property the following information:
- i. The Maximum Occupancy, Licence # and the Sales Tax ID# for the STR Business.
  - ii. Contact information for the Managing Business or Local Contact, including name, phone number and physical address.
  - iii. 911 contact information and the direct dial telephone number of the Gunnison County Sheriff’s Department Dispatch office.
  - iv. Instructions for the proper use of a septic system.
  - v. Summaries of Town ordinances and resolutions regarding pets, noise, OHV use, speed limits, and driver’s license requirements for operators of OHVs in Pitkin.

- K. Quiet Hours: All STR Businesses must comply with the Quiet Hours as determined by the Board of Trustees. Quiet Hours are between 10pm and 7am.<sup>36</sup>

### **SECTION 13. STR ORDINANCE ENFORCEMENT**

The Board of Trustees will by appointment establish a three (3) member panel<sup>37</sup> that will be responsible for investigation of adherence<sup>38</sup> to this ordinance. This panel will be objective and will have a diverse view of business activity within The Town. This panel will enforce compliance to this ordinance and issue citations of violation to the Property Owner of a STR Business.

The Property Owner of a STR Business which is presented with a citation of violation may choose to pay the associated fine of the violation or request review of the citation<sup>39</sup> by the Town Board.

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<sup>35</sup> Developed response parameters further to include discussion points.

<sup>36</sup> How can we educate people of Quiet Hours Town wide?

<sup>37</sup> Suggest the creation of a “Planning Department” which could be useful in many ways i.e. Code Enforcement, Special Permits...

<sup>38</sup> Changed from “investigation of violations” to “investigation of adherence”.

<sup>39</sup> Is this the “appeal” process as mentioned in Sec. 11B?